

Docket No.: 2046 PUS
Serial No. 10/047,169

REMARKS

Claims 1-7 and 9-31 are pending in this application. Claim 8 has been cancelled without prejudice. Claim 31 is new. Reconsideration of the application is respectfully requested in light of the following:

Objections and §112 Rejections

The Examiner has objected to the drawings, stating that the drawings do not show that "the flange is deflected in a plane generally perpendicular to the axis upon insertion of the upper hinge portion into the first lower portion." The Examiner has also rejected claims 1-3, 8, 12-14, 16, 17 and 19-30 under 35 U.S.C. § 112, first paragraph, as failing to comply with the written description requirement stating that "it has not been adequately disclosed that the flange is deflected in a plane generally perpendicular to the axis upon insertion of the first upper hinge portion into the first lower hinge portion." Figure 4 and page 5, lines 5-15 disclose this feature. This passage describes, "As the flat surface 25 of the first upper hinge member 24 is downwardly inserted into area 38, flat surface 25 exerts a slight interference with flange 40 causing flange 40 to flex and deform slightly inward, allowing first upper hinge member 24 to move downwardly past and below flange 40." By referencing Figure 4 while reading this passage, one would understand that the flange 40 would be deflected away from the first upper hinge member, which would be in a plane generally perpendicular to the axis of the hinge. Therefore, this rejection of claim 1 should be withdrawn.

With respect to the Examiner's rejection under § 112 of claim 12, this feature is disclosed on page 5 of the specification, lines 5 to 15.

With respect to the rejection under § 112 of claims 13 and 14, the arms 26 of the upper hinge portion are shown in Figure 2. Further, figures 3 and 4 show how the arms prevent movement along the axis of the hinge by contacting portions of the lower hinge portion. Therefore, this rejection should be withdrawn.

With respect to the rejection of claim 16 and 24 under § 112, this feature is shown in Figure 5, and described in the specification on page 4, lines 25-28. It is clear from the specification and drawings that movement between the side walls and the base in a direction generally parallel to a plane generally defined by the base would be limited by

Docket No.: 2046 PUS
Serial No. 10/047,169

the second lower hinge portion and the second upper hinge perimeter. Therefore, this rejection should be withdrawn.

With respect to the rejection under § 112 of claim 17, this feature is clearly shown in Figure 6 and described in the specification on page 6, lines 14-18. It is clear just by looking at Figure 6 that the latch striker portion snap fits into the latch receiver portion. Therefore, this rejection should be withdrawn. The rejection of claim 19 should be withdrawn for similar reasons.

With respect to the rejection of claim 20 under § 112, Figure 6 clearly shows that the arms extend at an angle inwardly (i.e., inwardly of the container) and away from one another. Therefore, the rejection of claim 20 should be withdrawn.

With respect to the rejections of claim 22 and 28, under § 112, page 6 of the specification from lines 10 to line 12 describes that the container is generally of a knock-down type, wherein the walls are unmatched and folded inwardly by applying external forces to the wall, as opposed to manually actuating the latch member. Therefore, this rejection should be withdrawn.

With respect to the rejection of claim 23 under § 112, this feature is shown in Claims 3 and 4, where it is apparent that the flange will be deflected in the plane perpendicular to the axis of the hinge. Therefore, this rejection should be withdrawn.

With respect to the rejection of claim 27 under § 112, the specification on page 6 describes that "opposed arms 62, 64 of receiver portions 56, 58 are slightly flexible such that, as striker angled surfaces 74, 76 apply a slight force to the interior of arms 62, 64, the ends thereof slightly deform and open slightly for fully receiving striker portions 56, 58 therein." (page 6, lines 14-17). Therefore, this rejection should be withdrawn.

With respect to the rejection of claim 30 under § 112, the claimed "interference portion" is the "bulbous ends 82" described on page 6 and shown in Figure 6. Therefore, this rejection should be withdrawn.

Rejection under §102 over Umiker '617

The Examiner has rejected claims 1-30 as being anticipated by Umiker (U.S. 5,829,617).

Docket No.: 2046 PUS
Serial No. 10/047,169

First, the Examiner does not allege that claims 17, 19, 22, 28 or 30 are anticipated by Umiker, but simply references his §112 rejection. This is improper. There is apparently no disagreement as to whether these claims are anticipated by Umiker. It is agreed that they are not. The only dispute is whether these claims should be rejected under §112. The anticipation rejection of these claims should be withdrawn.

In rejecting claims 1 and 23, the Examiner first calls the retaining finger 6 of Umiker the "first upper hinge portion" that deflects the flange. Claim 1 also requires that the flange secure the first upper hinge portion thereunder but Umiker's retaining finger 6 is not secured under the flange. Therefore, claims 1 and 23 are patentably distinguished over Umiker '617.

Additionally, although the Examiner (improperly) calls Umiker's retaining finger 6 the "first upper hinge portion" in rejecting claim 1, the Examiner later states that the retaining finger 6 of Umiker "performs the claimed function" of claim 13 (i.e. the "arm connected to the second elongate upper hinge portion"). At the very least, claims 1 and 13 cannot both be rejected.

In rejecting claim 14, the Examiner calls two retaining fingers 6 of two hinges in Umiker the "pair of arms." However, these two retaining fingers 6 do not both abut the second lower hinge portion, as required by claim 14. Even under the Examiner's interpretation they must abut different second lower hinge portions, not "the" second lower hinge portion. Additionally, these two retaining fingers 6 abutting the second lower hinge portions would not prevent movement in both directions along the axis. Instead, they would each abut a different hinge portion to prevent movement in the same direction. In Umiker, the hinge housings 5 must both be oriented in the same direction, so the hinge pins can slide into the hinge housings 5 in the same direction. Thus, the retaining fingers 6 of hinges on the same wall would both abut what the Examiner calls "second lower hinge portions" to prevent axial movement in the same direction, not both directions.

There is nothing in the Umiker patent that suggests that at least one of the beveled surfaces will flex, as required by claim 18. There is nothing in the structure of the Umiker container that would cause any of the beveled surfaces to flex.

Docket No.: 2046 PUS
Serial No. 10/047,169

Claims 7 and 10 recite that the "stop portion" or the "flange" includes a lowermost edge for abutting the first upper hinge portion. In Umiker, that which the Examiner calls the "flange" or "stop portion" (items near numerals 12 and 15) have side surfaces that abut the hinge pin 7, not a lowermost edge.

Independent claim 4 requires "the latch striker portion having corresponding mating beveled surfaces for being received securely within the latch receiver to retain the container in its assembled orientation." In Figures 9 and 10 of Umiker, the bead 29 is not "received securely" in the hook profile 22 and does not "retain" the container in the assembled position.

Independent claim 5 has been amended to recite that the first upper hinge portion is received in the first lower hinge portion in a direction not parallel to the axis of the first upper hinge pin. In Umiker, that which the Examiner calls the "first upper hinge portion" is received axially into that which the Examiner calls the "first lower hinge portion."

Independent claim 27 recites that the beveled surfaces of the latch striker are received securely within the latch receiver. In Figures 9 and 10 of Umiker, the bead 29 is not received securely in the hook profile 22. Nor is there any reason why any of the beveled surfaces would flex during insertion of the bead 29 into the hook profile 22. There is nothing in Umiker to suggest that they are designed to do so or that they will.

New dependent claim 31 depends from claim 1 and further recites that the first upper hinge portion is received in the first lower hinge portion in a direction at least substantially perpendicular to an axis of the first upper hinge portion. In Umiker, that which the Examiner calls the "first upper hinge portion" is received axially into that which the Examiner calls the "first lower hinge portion."

Rejection under §102 over Miller

The Examiner has rejected claims 1-11, 13-16 and 23-26 as anticipated by Miller (US 5,094,356).

With respect to claims 1 and 23, the Examiner refers to Figures 4-6 of Miller. Since the Examiner references the flange 33, it is assumed that the Examiner is comparing Miller's flange 33 with the flange claimed in claims 1 and 23. Since claims 1 and 23 require that the "first upper hinge portion" be retained under the flange, it is

Docket No.: 2046 PUS
Serial No. 10/047,169

assumed that the Examiner is calling the pin 38 of Miller the claimed "first upper hinge portion." However, referring to Figure 4 of Miller, the flanges 33 deflect outwardly in a plane containing the axis of the hinge. Therefore, the flanges 33 do not deflect "in a plane perpendicular to the axis," as required by claims 1 and 23. Claim 5 has been amended to recite this feature, from former dependent claim 8.

In Miller, the hooks 54 (Figure 19) of the side panels 18 are dropped downwardly into the pockets 43 (Figure 10) of the end panels to connect the side panels 18 to the end panels 43. If the Examiner is calling the pockets 43 the claimed "latch receiver portion," the pockets 43 do not appear to have a plurality of beveled surfaces as required by claim 4.

If the Applicant's understanding of the rejection provided above is incorrect, then clarification is requested from the Examiner.

The Examiner has rejected claims 13 and 14 as anticipated by Miller. However, claims 13 and 14 depend from claim 12, which the Examiner does not contend is anticipated by Miller. Therefore, the rejection of claims 13 and 14 should be withdrawn.

Rejection under §102 over Umiker '701

The Examiner has rejected claims 1-11, 13-16 and 23-26 as anticipated by Umiker (US 6,286,701, more particularly, the published PCT).

With respect to claims 1 and 23, the Examiner refers to Figure 12 of Umiker. The flange 19 deflects outwardly in a plane containing the axis of the hinge (i.e. in the plane of the paper for Figure 12). Therefore, the flanges 19 do not deflect "in a plane perpendicular to the axis," as required by claims 1 and 23. Claim 5 has been amended to recite this feature as well.

The Examiner has rejected claim 4 as anticipated by Umiker '701, but it is not understood where in Umiker '701 the Examiner is finding the claimed beveled surfaces of the latch striker and latch receivers. Clarification is requested.

Docket No.: 2046 PUS
Serial No. 10/047,169

CONCLUSION

It is believed that no fees are due; however, if any fees or extensions are due, please charge any such fees to Deposit Account No. 50-1984.

Respectfully submitted,



Konstantine J. Diamond
Registration No. 39,657
4010 East 26th Street
Los Angeles, California 90023
Telephone: (323) 262-5145
Facsimile: (323) 269-8506

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